

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: : Docket #20cv8924
IN RE NEW YORK CITY POLICING :
DURING SUMMER 2020 DEMONSTRATIONS : New York, New York
: July 11, 2022
-----: TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE GABRIEL W. GORENSTEIN,
UNITED STATES MAGISTRATE JUDGE

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2 plans from the beginning.

3 THE COURT: I mean --

4 MS. FRICK: Well that plan was never
5 communicated to us.

6 THE COURT: Yes, I mean I'm not quite sure how
7 to do this.

8 MS. FRICK: And --

9 THE COURT: Hold on. Hold on.

10 MS. FRICK: If that was the plan we should
11 have been doing that during the stay.

12 THE COURT: Listen, we have to solve the
13 problem we have in front of us. The, I guess when
14 names are available the defendants need to immediately
15 contact these people and schedule them. Now whether
16 they are scheduled, you know, August 1st or they're
17 scheduled October 1st, I'm not sure is that important as
18 long as, because some people might not be free for two
19 months. But I guess it's what's important that there
20 be a flow of names from the plaintiffs and a constant
21 filling in of the calendar by defendants as they reach
22 each of these deponents.

23 MS. FRICK: I believe that our understanding
24 this entire time is that defendants would be choosing
25 the dates for the defendant officers, especially --

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THE COURT: We just want to make sure that

those dates get chosen --

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MS. FRICK: Understood.

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THE COURT: (continuing) -- within some, within some reasonable period of when they give you names. So the calendar has to be --

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MS. FRICK: Your Honor, I need to clarify

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THE COURT: Go ahead.

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MS. FRICK: I'm sorry to interrupt, but we have provided the defendants the full list months, weeks ago, if not I believe when I started this process it may have been in May, possibly April, so the defendants have had the list. The list that we provided last week was just a subset to say, look, to the extent that you are feeling overwhelmed by this big list of names, like here's a list of 30 that we have identified that like we could, that we want you to prioritize getting done and that list included a number of line officers.

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So the point is that there are, other than plaintiffs there are no depositions on the calendar, none, zero.

THE COURT: Okay, I see the problem. You have

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2 the full list, you just, you gave a list of people that
3 you wanted to give priority to. Are you ready on the
4 full list as it were?

5 MS. FRICK: Are we ready, Your Honor?

6 THE COURT: Yes, on the full list?

7 MS. FRICK: Do you mean, I just don't think I
8 understand the question.

9 THE COURT: No, I mean is there any reason
10 they can't just start going down that full list and
11 putting together a deposition calendar right now?

12 MS. FRICK: There's no reason. We, our idea
13 was that by providing the names now it would also help,
14 it would also help the defendants know that like we
15 think it makes sense to start with these folks and by
16 start we don't mean, you know, tomorrow, but like this
17 batch of 30 makes sense to be scheduling in the nearer
18 term because there might be, you know, maybe the chief
19 of police shouldn't be the first high level deponent,
20 maybe that person makes sense to be scheduled more in
21 the winter. But at a certain point we kind of lost our,
22 at this point there's not going to be really even time
23 for us to have preferences like that, like we just need
24 people on the calendar.

25 THE COURT: All right, Ms. Robinson, what's

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2 your proposal for making sure we have everybody
3 scheduled and it's scheduled through February 28th,
4 what's your proposal for how to do that?

5 MS. ROBINSON: We, as I stated, we are working
6 on plaintiffs' list, that our plan all along was to do
7 the line officer, and that's, in fact, what's been
8 going on is the line officers and the plaintiffs' deps
9 which were ordered to be also taking place. And then
10 the higher ranking individuals would go last in the
11 schedule. And we are doing our best to make the
12 schedule happen and we are going to respond to Ms.
13 Frick's schedule. We've been planning to respond to
14 that schedule.

15 THE COURT: When you say schedule --

16 MS. FRICK: Well, to be clear, it wasn't a
17 schedule.

18 THE COURT: You mean the list of thirty?

19 MS. ROBINSON: The list, yes.

20 THE COURT: Yes, okay. So

21 MS. FRICK: I also think, Your Honor, we have
22 to double track depositions, and so our idea, as we had
23 discussed in meet and confers and at the conference a
24 couple of weeks ago was that we can hold line officers
25 and high up officers on the same day. There is simply

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2 not, there are not enough days, work days between now
3 and February 28th, to do it completely staggered to do
4 it the way Ms. Robinson is suggesting.

5 MS. ROBINSON: I'm not suggesting that, Your
6 Honor. I'm not suggesting, you know, a deposition a
7 week. I'm not even suggesting that we can't double
8 track, it's only been three days since we've gotten the
9 list.

10 MS. FRICK: No.

11 MS. ROBINSON: And we are working on that
12 list.

13 THE COURT: What is your process, when you
14 want to, do you contact a line officer's supervisor and
15 you pick a day and you discuss it with them, what do
16 you do?

17 MS. ROBINSON: We contact the officer directly
18 and we find out what his availability is, and based
19 upon that we schedule, we basically find out what his
20 vacation days are, what his regular scheduled days off
21 are, and then we work into the schedule when that
22 person is available and then when we are available to
23 prep them and depose them. That's how it works with the
24 line officer, it's the same way that it works --

25 THE COURT: And how long does, I mean it

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2 doesn't sound like it would take, I mean maybe it takes
3 a day or two to reach the officer, but once you reach
4 the officer then you've got your list of days, right?

5 MS. ROBINSON: Yes, we also -- yes, in theory,
6 yes, that should work. It's, it just, it's time
7 consuming, it's a little more involved than that.

8 THE COURT: I know, but I think this
9 investment of time here will save you some grief down
10 the road.

11 MS. ROBINSON: And plaintiffs have cancelled
12 depositions, this is, you know, not something that's on
13 the defendants.

14 THE COURT: Ms. Robinson, Ms. Robinson, I'm
15 talking about scheduling depositions.

16 MS. ROBINSON: Understood.

17 THE COURT: We need to have depositions
18 filling up a calendar in the short term.

19 MS. ROBINSON: Understood.

20 THE COURT: I'm trying to think about how the
21 process should be, I mean I guess I could say I require
22 the plaintiff, I mean it's a total of about how many
23 names or days, it's like a hundred-something, what was
24 it?

25 MS. FRICK: With the plaintiffs I believe it's

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2 approximately 125 days total.

3 MS. ROBINSON: I think it's 145 days with the
4 plaintiffs, and that's 145 deposition prep days. So we
5 are mindful of the schedule and the --

6 THE COURT: Okay, I mean it's your own head on
7 the chopping block figuratively, I just can't imagine
8 how you are going to do this without contacting these
9 officers immediately and getting back to plaintiffs
10 within a matter of, you know, two or three, maybe five
11 at the most days saying here's the dates for these
12 people. So that's what should be happening on some
13 ratio.

14 Now it doesn't seem, if you've got thirty
15 names, is that what you said you gave them, Ms. Frick,
16 to start?

17 MS. FRICK: Yes, our kind of batch, but,
18 again, it's just a subset of the people that we're --

19 THE COURT: I understand, on Wednesday, okay.
20 So --

21 MS. FRICK: And I do think it's not going to
22 work if the defendants try to first get through all of
23 the line officers before scheduling high up officers.
24 Our main concern about that is we're going to come to
25 the winter and we're going to suddenly have no time for

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2 the people that, you know, the teams really care about.

3 MS. ROBINSON: And, Your Honor, you know, I
4 misspoke because, you know, obviously, you know,
5 officers will be, you know, combined with each other
6 and there will be high ranking people that will go, you
7 know, more than one in one week. So -- and plaintiffs
8 as well, we still have numerous plaintiffs to go
9 through and we haven't received any of their
10 availabilities as of yet either. So --

11 THE COURT: If you had come to me and
12 complained about that -- if you came to me and
13 complained about that I would do something. But I'm
14 just trying to solve this problem and it seems to me
15 that we need to get a list really quickly, and I'm not
16 sure it has to be all 145, but at least the 30, you
17 know, within a matter of, you know, by Friday at the
18 absolute latest --

19 MS. ROBINSON: Your Honor, that would be
20 impossible to get availability for 30 officers --

21 THE COURT: Why?

22 MS. ROBINSON: By Friday.

23 THE COURT: You told, I asked you this
24 question, you told me that you have to contact the
25 officer and then you basically know the dates of that

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2 officer and it takes you a day or two to reach that
3 officer.

4 MS. ROBINSON: Well I didn't say it takes a
5 day or two to reach the officer, sometimes it can take
6 a long time to reach an officer. We've had that issue
7 with the past round of officers. We did double track on
8 Friday, by the way, and it can be complicated reaching
9 officers. Once you reach an officer and, it's just a,
10 it can be a complicated process reaching them, not
11 necessarily getting them scheduled. But we have to
12 take into consideration there are --

13 THE COURT: How many officers have you
14 contacted so far to try to schedule their deposition?

15 MS. ROBINSON: Me, personally?

16 THE COURT: No, the City of New York.

17 MS. ROBINSON: I don't, I don't know the
18 answer to that, Your Honor.

19 THE COURT: I want an answer to that question
20 and I want it by tomorrow. I want, I ordered these
21 depositions to start happening. You already have the
22 list of a hundred and whatever names putting aside
23 these thirty names. These people have to be contacted
24 immediately. I want, I think the way to do this is for
25 you to do an Excel spreadsheet with these names and

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C E R T I F I C A T E

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4 I, Carole Ludwig, certify that the foregoing
5 transcript of proceedings in the United States District
6 Court, Southern District of New York, In Re: New York
7 Policing During Summer 2020 Demonstrations, docket
8 #20cv8924, was prepared using PC-based transcription
9 software and is a true and accurate record of the
10 proceedings.

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15 Signature Carole Ludwig

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17 Date: July 13, 2022

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